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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,856	09/12/2003	Theodore A. Chapman	M-15268 US	8641

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Tom Chen
MacPHERSON KWOK CHEN & HEID LLP
Suite 226
1762 Technology Drive
San Jose, CA 95110

EXAMINER	
CHAU, MINH H	

ART UNIT	PAPER NUMBER
2854	

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/660,856	CHAPMAN ET AL.
	Examiner	Art Unit
	Minh H. Chau	2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) *1-21 and 30-34* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1. After further consideration, the indicated allowable subject mater of **claim 28** is withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 27 and 28** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to **claim 27**, the value "N" as recited in claim 27 is a broad term and do not have a specific range, the value of N can be any number, so if the value of $N \leq 0$ then the limitation as recited in claim 27 is indefinite.

With respect to **claim 28**, the value "N" as recited in claim 28 is a broad term and do not have a specific range, the value of N can be any number, so if the value of $N \leq 1$ then the limitations of *"attempting N-1 ... after N interrogations"* as recited in lines 7-11 of claim 28 is indefinite.

4. To the extend that the limitation as recited in claims 27 and 28 are definite and understandable the following prior art rejection appear to be proper.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claim 22-26 and 28-29** are rejected under 35 U.S.C. 102(b) as being anticipated by Petteruti et al. (US # 6,409,401).

With respect to **claim 22 and 28**, Petteruti et al. teach a method for printing labels (16) from a roll (14), with each label having transponder chip or RFID tag (16a), the method comprising passing a label (16) over an antenna or RFID antenna (23), interrogating the RFID tag in the label, determining if the interrogating was successful, attempting N-1 additional interrogations until a successful interrogation is determined, the additional retries is three or N > 1, and printing the label once a successful interrogation is determined (see Figs. 1-3 and cols. 2-5 of Petteruti et al.)

With respect to **claim 23**, see Fig. 3 and col. 4 of Petteruti et al. that teach the step of receiving print and tag data from a host computer.

With respect to **claim 24**, see cols. 3-5 of Petteruti et al. that teach the step of interrogating is reading data from the transponder chip or RFID tag (16).

With respect to **claim 25**, see col. 3 of Petteruti et al. that teach the step of interrogating is programming data in the transponder chip or RFID tag (16).

With respect to **claim 26**, see col. 5, lines 4-15 of Petteruti et al. that teach the value of N is 5 or less.

With respect to **claim 29**, see Fig. 1 and col. 2 of Petteruti et al. that teach the step of printing is by the thermal printing head.

7. **Claim 28** is rejected under 35 U.S.C. 102(b) as being anticipated by Heredia et al. (US # 6,327,972).

With respect to **claim 28**, Heredia et al. teach a method for printing labels (23) from a roll (21), with each label having transponder chip or RFID tag (26), the method comprising passing a label (23) over an antenna or RFID antenna (20), interrogating the RFID tag in the label, determining if the interrogating was successful, attempting N-1 additional interrogations until a successful interrogation is determined', and printing the label once a successful interrogation is determined (see Figs. 1-2 and cols. 3-6 of Heredia et al.)

With respect to the recitation of "attempting N-1 ... determined", this method step is directly depending on the value on N and since the N value in claim 28 can be any number therefore, if **N ≤ *1***, then there is no additional attempting interrogation is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti et al. as applied to claims 22-26 and 29 above, and in view of Heredia et al. (US # 6,327,972).

With respect to **claim 27,** Petteruti et al. teach all the limitation as explained above, except for the limitation "over striking ... after N interrogations"

Heredia et al. teach a method for printing labels including the step of colored black or over striking the label if a successful interrogation cannot be determined after N interrogations (see cols. 5-6 of Heredia et al.)

In view of this teaching, it would have been obvious to one of skill in the art to modify the method for printing labels of Petteruti et al. to including the method for printing labels that comprise the step of over striking the label if a successful interrogation cannot be determined after N interrogations as taught by Heredia et al. to ensuring the defective RFID label can be identifying by the user.

10. **Claims 22-27 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Heredia et al. (US # 6,327,972) in view of Petteruti et al. (US # 6,409,401).

With respect to **claim 22 and 26**, Heredia et al. teach a method for printing labels (23) from a roll (21), with each label having transponder chip or RFID tag (26), the method comprising passing a label (23) over an antenna or RFID antenna (20), interrogating the RFID tag in the label, determining if the interrogating was successful, attempting N-1 additional interrogations until a successful interrogation is determined', and printing the label once a successful interrogation is determined (see Figs. 1-2 and cols. 3-6 of Heredia et al.)

Heredia et al. teach all the limitation as explained above, except for the limitation of attempting N-1 additional interrogations with the value of N is greater than 1.

Petteruti et al. teach a method for printing labels (16) including the step of verifying or interrogating the RFID tag in the label and attempting N-1 additional verifying or interrogations with the maximum number of retries is three (value of N ≥ 1) (see cols. 3-5 of Petteruti et al.)

In view of this teaching, it would have been obvious to one of skill in the art to modify the method for printing labels of Heredia et al. to including the method for printing labels that comprise the step of attempting N-1 additional verifying or interrogations with the value of N is greater than 1 as taught by Petteruti et al. for the advantage of ensuring the information on the RFID tag is properly encoded before additional information can be printed on the label.

With respect to **claim 23**, see col. 4 of Heredia et al. that teach the step of receiving print and tag data from a host computer (17).

With respect to **claim 24**, see col. 5 of Heredia et al. that teach the step of interrogating is reading data from the transponder chip or RFID tag (26).

With respect to **claim 25**, see col. 5 of Heredia et al. that teach the step of interrogating is programming data in the transponder chip or RFID tag (26).

With respect to **claim 27**, see col. 5, line 55 through col. 6, line 3 of Heredia et al. that teach the step of colored black or over striking the label if a successful interrogation cannot be determined after N interrogations.

With respect to **claim 29**, see col. 3, lines 59-60 of Heredia et al. that teach the step of printing is by the thermal printing.

Response to Arguments

11. Applicant's arguments with respect to claims 22-29 have been considered but are moot in view of the new ground(s) of rejection.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh H. Chau whose telephone number is (571) 272-2156. The examiner can normally be reached on M - TH 9:30AM - 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H. Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHC
April 13, 2005

MINH CHAU
PRIMARY EXAMINER